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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/082,044

05/20/1998

NITIN J. SHAH

SHAH-11

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02/08/2005

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EXAMINER

DINH, KHANH Q

ART UNIT

PAPER NUMBER

2151

DATE MAILED: 02/08/2005

22

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/082,044

Applicant(s)

SHAH, NITIN J.

Examiner

Khanh Dinh

Art Unit

2151

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3-8,10-15 and 17-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-8,10-15 and 17-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 17, 18.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Art Unit: 2151

### **DETAILED ACTION**

1. In view of the Appeal Brief filed on 2/25/2002, PROSECUTION IS HEREBY REOPENED. The new rejection sets forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

2. Claims 1, 3-8, 10-15 and 17-21 are presented for examination.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary

Art Unit: 2151

skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3-8, 10-15 and 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wada et al US pat. No.5,845,079 in view of Maddalozzo Jr. et al., US pat. No.5,974,460.

As to claim 1, Wada discloses a system for communicating with the Internet comprising:

a site (12 fig.6) couplable to a network (network B fig.6) that contains data presented at a site (i.e., transmitting data packets both before and after migration, see fig.6, abstract, col.16 lines 15-58).

a communication manager (gateway 13 fig.3) that manages communication with site based on determination when the site is the mobile site, either to said mobile site (mobile host 11 fig.6) when said mobile site is available in a wireless communication with the network (migration) or the mobile site is out of wireless communication with said communication network (see col.13 lines 1-49 and col.16 line 59 to col.17 line 25), an address parser (address comparison unit 48 fig.8) that makes a determination of whether said site is a mobile site or a fixed site (determining if the destination address of the packet received from the application coinciding with the mobile host assigned before migration, see col.13 line 50 to col.14 line 54).

Wada does not specifically disclose a mirror site containing a time-delay copy of data. However, Maddalozzo discloses a mirror site containing a time-delay copy of data (providing a mirror site to provide copies of the same information sought by users at any

Art Unit: 2151

given time, see fig.3, col.1 lines 19-41 and col.3 line 57 to col.4 line 42). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to utilize Maddalozzo's mirror site into the computer system of Wada to provide data information to users because it would have enabled users to initiate selectively sample data transfers from a plurality of mirror sites on the Internet and thus provided the best transfer rates at the time of site selection.

As to claim 3, the Wada-Maddalozzo combination discloses that communications manager prompts said site to update said mirror (see Wada's abstract and col.39 lines 28-65 and Maddalozzo's col.3 line 57 to col.4 line 42).

As to claim 4, Maddalozzo discloses that communications manager buffers said communications to accommodate lower bandwidth when said site is a mobile site (determining the most efficient site to accommodate predetermined threshold time, see fig.4, col.3 lines 10-57 and col.4 line 43 to col.5 line 17). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to utilize Maddalozzo's mirror site into the computer system of Wada to provide data information to users because it would have enabled users to initiate selectively sample data transfers from a plurality of mirror sites on the Internet and thus provided the best transfer rates at the time of site selection.

Art Unit: 2151

As to claim 5, Wada further discloses that the address parser makes said determination of whether said site is said mobile site (i.e., using Virtual Internet Protocol and Physical Internet Protocol as a header of the packet as it transmits a packet to a mobile node) (see col.1 line 51 to col.2 line 23). Maddalozzo disclose a plurality of web site linked to mirrored sites (see fig.3, col.1 lines 19-41 and col.4 line 58 to col.4 line 67, it is also inherent that these web sites/mirror sites having particular domain names). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to utilize Maddalozzo's teachings into the computer system of Wada to provide data information to users because it would have enabled users to initiate selectively sample data transfers from a plurality of mirror sites on the Internet and thus provided the best transfer rates at the time of site selection.

As to claim 6, Wada further discloses that the communications manager acknowledges said communications to said mobile site (determining of the mobile host in migration or not, see col.2 lines 9-23 and col.16 line 33 to col.17 line 45).

As to claim 7, Wada discloses that the communications manager and an address parser are associated with the Internet (see Wada's fig.6, col.1 line 57 to col.2 line 9 and col.16 line 33 to col.17 line 45).

Claims 8, 10 and 12-14 are rejected for the same reasons set forth in claims 1, 3 and 5-7 respectively.

Art Unit: 2151

Claims 11 and 18 are rejected for the same reasons set forth in claim 4.

Claim 15 is rejected for the same reasons set forth in claim 1 with the combination of Wada and Maddalozzo. As to the added limitations, Wada further discloses a plurality of fixed sites associated with the stationary host (12 of fig.6 and figs .11), a plurality of mobile sites having mobile-site domain names associated with the mobile host (mobile hosts 11 of fig.6 and figs. 11) and a communications infrastructure that couples ones of said pluralities of fixed and mobile sites for communication. Maddalozzo discloses these sites having fixed-site domain names and mobile-site domain names (see fig.3, col.1 lines 19-41 and col.4 line 58 to col.4 line 67, it is also inherent that these web sites/mirror sites having particular domain names). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to utilize Maddalozzo's mirror site into the computer system of Wada to provide data information to users because it would have enabled users to initiate selectively sample data transfers from a plurality of mirror sites on the Internet and thus provided the best transfer rates at the time of site selection.

Claims 17 and 19-21 are rejected for the same reasons set forth in claims 3 and 5-7 respectively.

Art Unit: 2151

***Response to Arguments***

5. Applicant's arguments with respect to claims 1, 3-8, 10-15 and 17-21 have been considered but are moot in view of the new ground(s) of rejection.

***Other prior art cited***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Averbuch et al, US pat. No.5,867,785.

b. Shah, US pat. No.6,260,070.

***Conclusion***

7. Claims 1, 3-8, 10-15 and 17-21 are rejected.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh Dinh whose telephone number is (571) 272-3936. The examiner can normally be reached on Monday through Friday from 8:00 A.m. to 5:00 P.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung, can be reached on (703) 272-3939. The fax phone number for this group is (703) 872-9306.

*A shortened statutory period for reply is set to expire THREE months from the mailing date of this communication. Failure to respond within the period for response*



Art Unit: 2151

*will cause the application to become abandoned (35 U. S. C . Sect. 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(A).*

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval IPAIRI system. Status information for published applications may be obtained from either Private PMR or Public PMR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Khanh Dinh  
Patent Examiner  
Art Unit 2151  
1/26/2005